

Exhibit BB

From: [Nemelka, Michael N.](#)
To: [SERVICE-EXTERNAL-DMS-MDL](#)
Subject: DMS MDL -- CDK review of custodians and search terms
Date: Monday, July 30, 2018 7:41:29 PM
Importance: High

Britt,

On the meet and confer that just ended regarding MDL Plaintiffs' search terms of Defendants' ESI, your colleague Ethan Hastert informed us – for the first time – that apparently CDK is refusing to run the search terms that CDK previously agreed to across any of the additional custodians that CDK has agreed to. Is that true? That is contrary to all of your prior representations regarding search terms and custodians. It is also contrary to a fundamental premise – perhaps the fundamental premise – of the entire negotiation of custodians and search terms, namely, that all agreed search terms would be run across all agreed upon custodians. This is especially important in light of CDK's RFP responses, which largely agree to produce documents based on custodians and search terms. Finally, the new custodians are absolutely critical to this case, and we negotiated away many of our requested and desired custodians based on your representations (and all parties' understanding) that the new custodians would be treated the same as the previously agreed-to custodians. For example, Josh Douglas, Trey Gerlich, Brian MacDonald, Scott Herbers, and the other new custodians are marquee custodians. They will be witnesses at the various trials in this MDL. And they are going to have a plethora of relevant documents.

CDK finds itself as a defendant in this industry-wide MDL where all levels have sued CDK, from vendors to dealers to competitors. Given our many concessions, there can be no doubt that any burden argument CDK may attempt to assert is meritless in light of its central role in these cases. And Reynolds, of note, is not taking the same position as CDK, even though Reynolds is not a defendant in the vendor class and the Cox Automotive lawsuits. CDK is a defendant in every case.

Please let us know tonight if CDK is in fact taking the position articulated on today's meet and confer. If it is, we consider it in the utmost bad faith and will file an emergency motion with the Court not only to compel but seeking appropriate sanctions.

Thanks,
Mike, Derek, and Peggy

Michael N. Nemelka
Kellogg, Hansen, Todd, Figel & Frederick, P.L.L.C.
1615 M. St. N.W., Suite 400
Washington, DC 20036
Direct: (202) 326-7932
mnemelka@kellogghansen.com

NOTICE: This transmission is intended only for the use of the addressee and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately via reply e-mail, and then destroy all instances of this communication. Thank you.

